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8   **UNITED STATES DISTRICT COURT**

9   EASTERN DISTRICT OF CALIFORNIA

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11   BILLY DRIVER, JR.,   Case No. 1:23-cv-01251-JLT-BAM (PC)

12   Plaintiff,   ORDER CONSTRUING FILING AS MOTION
                                               FOR SETTLEMENT CONFERENCE
13   v.
                                               ORDER DENYING PLAINTIFF'S MOTION
14   MAYA, *et al.*,   FOR SETTLEMENT CONFERENCE AS
                                               PREMATURE
15   Defendants.
                                               (ECF No. 18)
16

17   Plaintiff Billy Driver, Jr. ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma*

18   *pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

19   Currently pending are the Court's September 5, 2023 findings and recommendations to

20   dismiss this action due to Plaintiff's failure to exhaust administrative remedies. (ECF No. 17.)

21   Plaintiff's objections to those findings and recommendations are due on or before September 22,

22   2023. (*Id.*)

23   On September 13, 2023, Plaintiff filed a Stipulation and Order to Elect Referral of Action

24   to Voluntary Dispute Resolution Program (VDRP) Pursuant to Local Rule 271. (ECF No. 18.)

25   The form includes Plaintiff's signature only. (*Id.*)

26   The Court will construe the filing as a motion for a settlement conference, and the motion

27   is deemed submitted. Local Rule 230(l).

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As this action has not yet been served on any defendant, no defendant has appeared, and there are pending findings and recommendations to dismiss this action in its entirety, the Court finds that a settlement conference would be premature at this time.

Accordingly, IT IS HEREBY ORDERED as follows:

1. Plaintiff's September 13, 2023 filing, (ECF No. 18), is CONSTRUED as a motion for settlement conference;

2. Plaintiff's motion for a settlement conference, (ECF No. 18), is DENIED as premature; and

3. Plaintiff's objections to the pending findings and recommendations, if any, remain due on or before September 22, 2023.

IT IS SO ORDERED.

Dated: **September 14, 2023**   /s/ *Barbara A. McAuliffe*
                                          UNITED STATES MAGISTRATE JUDGE

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